United States Department of Labor
Employees' Compensation Appeals Board

C.G., Appellant	)	
and	)	**Docket No. 20-0058**
	)	**Issued: September 30, 2021**
DEPARTMENT OF VETERANS AFFAIRS, JOHN J. PERSHING VA MEDICAL CENTER, Poplar Bluff, MO, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 7, 2019 appellant filed a timely appeal from an August 20, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the August 20, 2019 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id*.

ISSUE

The issue is whether appellant has met her burden of proof to establish an injury in the performance of duty on June 20, 2019, as alleged.

FACTUAL HISTORY

On July 8, 2019 appellant, then a 60-year-old licensed practical nurse, filed a traumatic injury claim (Form CA-1) alleging that she suffered cardiac arrest on June 20, 2019 while in the performance of duty, causing her to lose consciousness and fall backward to the floor. She explained that she was charting at the nurse's station when she got up, walked across the floor (approximately 10 feet), reached for a door handle, grunted, and then fell backward onto a concrete floor. Appellant stopped work on the date of injury.

In a July 10, 2019 development letter, OWCP informed appellant of the deficiencies of her claim and advised her of the type of factual and medical evidence needed. It requested that she complete a questionnaire regarding the factual circumstances of her injury and provide additional medical evidence. OWCP afforded appellant 30 days to submit the requested evidence.

In a hospital report dated June 20, 2019, Dr. Michael John Clippard, a Board-certified emergency medicine specialist, diagnosed syncope and collapse, abdominal aortic aneurysm (AAA), without rupture, chronic obstructive pulmonary disease (COPD), personal history of other malignant neoplasm of skin, other long-term (current) drug therapy, and long-term (current) use of aspirin. He indicated that appellant was a patient who had presented after a possible seizure and she reportedly had no recall of the event. Appellant related that she remembered checking in a patient while in a sitting position and the next thing she recalled was people talking to her.

In a report dated June 20, 2019, Dr. Chris L. Chappell, a Board-certified family practitioner, indicated that appellant was seen with a chief complaint of syncope. She did not recall the events leading up to her admission, but her daughter, who was present during the visit, reported that appellant was at work, standing when coworkers noticed that she had become limp, fell backwards, and became unresponsive. Appellant began to shake, with decorticate posturing of her upper extremities. Coworkers rolled her onto her side and her breathing became shallow. They could not feel a pulse and chest compressions were started. Appellant received a total of seven minutes of chest compressions with two automated external defibrillator shocks. The emergency medical services arrived and she was transferred to the emergency department. Appellant had reportedly felt more fatigued over the prior few months and reported a history of premature ventricular contractions (PVCs) in the past, but denied recent palpitations, chest pain, or dyspnea. Dr. Chappell diagnosed syncope, Mobitz Type 2 block, cardiac arrest, seizure-like activity, and COPD with mild exacerbation.

On June 21, 2019 Dr. Karthik Ramaswamy, a Board-certified internist and cardiovascular disease specialist, diagnosed cardiac arrest, presumably from "VT/VF" although no rhythm strips were available, and no apparent etiology was identified.

In a June 21, 2019 report, Dr. Michael R. Klein, a Board-certified internist and cardiovascular disease specialist, indicated that appellant had a history of COPD/asthma, PVCs,

and AAA who had presented to the hospital after "sudden rest." He noted that appellant had a sudden syncopal episode, but did not remember the details of the event itself. Appellant reported that, prior to the episode, she was having intermittent chest pains, but only with emotional stress. She was fairly sedentary, did not perform any structured aerobic exercise, and had chronic and stable shortness of breath. Appellant also had chronic palpitations, which had not changed, but no known cardiac disease.

On June 22, 2019 Dr. Stuart Taylor Higano, a Board-certified internist and cardiovascular disease and interventional cardiology specialist, reported that appellant was without past cardiac disease, but had a number of risk factors. He noted that she had collapsed while at work, but had not had any neurologic deficit. Appellant's echocardiogram revealed an ejection fraction of 50 to 55 percent without significant abnormalities. Dr. Higano found that a cardiac catheterization dated June 21, 2019 showed nonobstructive coronary artery disease.

In a June 24, 2019 progress report, Dr. Klein diagnosed sudden cardiac arrest, elevated end-diastolic pressure and edema, and AAA.

In an inpatient discharge summary dated June 28, 2019, Dr. Matthew Daniel Reuter, an internist, diagnosed cardiac arrest at work. He reiterated Dr. Chappell's report that appellant was standing when coworkers noticed that she had become limp and fell backwards and was unresponsive. After falling, appellant began to have shaking movements with decorticate posturing of her upper extremities.

In a June 28, 2019 progress report, Dr. Ramaswamy indicated that appellant had suffered a cardiac arrest with syncope and collapse and he had successfully placed a dual-chamber implantable cardioverter defibrillator (ICD) that day.

In a hospital report dated June 30, 2019, Dr. Doubhi Bahna, a Board-certified internist, indicated that appellant had been admitted on June 29, 2019 for chest pain, likely musculoskeletal etiology, congestive heart failure exacerbation, post cardiac arrest and status post cardiopulmonary resuscitation (CPR) on June 20, 2019, bilateral nondisplaced anterior rib fracture, status post CPR, COPD not in acute exacerbation, and hyperlipidemia.

On June 30, 2019 Dr. Mark A. Hassen, an emergency medicine physician, diagnosed chest wall pain, closed fracture of multiple ribs of both sides, acute on chronic combined systolic and diastolic congestive heart failure, and bilateral pleural effusion.

In a July 1, 2019 hospital report, Dr. Amanda E. Avellone, a Board-certified internist specializing in critical care medicine, sleep medicine, and pulmonary diseases, diagnosed bilateral rib fractures, small bilateral pleural effusions, COPD, asthma, and obstructive sleep apnea.

In an attending physician's report (Form CA-20) dated July 30, 2019, Dr. Klein continued to diagnose cardiac arrest and checked a box marked "Yes" indicating that appellant's condition was caused or aggravated by her stressful work environment.

In a July 26, 2019 response to OWCP's development questionnaire, appellant asserted that she was at the nurses' station and was "going to check in [a] veteran" when she was injured. She was later found by her coworkers and was informed that her head had hit the floor. Appellant

alleged that she had went into cardiac arrest and her only injuries were related to the fall. She further noted that she had fatigue, stress, and anxiety from work and that she has a history of COPD and elevated cholesterol.

In a development letter dated August 14, 2019, OWCP requested additional information from the employing establishment, including any available statements from individuals who had witnessed or had direct knowledge of the circumstances surrounding appellant's fall, which resulted in the injury, as well as any knowledge of any medical condition which may have contributed to the injury.

In an August 14, 2019 report, Dr. Klein reiterated the factual history and noted appellant's diagnosis of sudden cardiac arrest and that she underwent a successful dual-chamber ICD placement on June 27, 2019. He opined that the cause of her fall was due to sudden cardiac arrest.

OWCP subsequently received witness statements from appellant's coworkers. In a statement dated August 19, 2019, N.M. indicated that he was not present on the scene when appellant fell, but quickly arrived upon notification that appellant had fallen and was unconscious, without a pulse. He detailed the history of injury noting that at approximately 10:45 a.m. on June 20, 2019, she was working at her desk when she stood up to greet a new patient for in-processing. Appellant proceeded to the door, heading into the hallway, grunted as if she had stomach pain, and fell backwards, striking the back of her head onto the concrete floor. N.M. contended that there were no other items that she struck on the way to the ground. Following the fall, he and an in-house physician identified the emergency and called for help. In an undated witness statement, summarizing a number of coworkers' accounts, it was noted that appellant had stood up from an office chair, walked toward the clinic hallway facing Sergeant T.N. who reported that "[appellant] grunted like [she had] stomach pain, her eyes got wide, she fell backwards." In another statement, M.B. recounted that she had turned around in time to see appellant falling backward, striking her head on the concrete floor and asserted that there was no object that she struck that caused the fall. It was further reported that she had previously informed her coworkers that she had extensive COPD and had several hospitalizations requiring ventilator support over the past five years. Appellant had also informed coworkers during a past training session that she had an irregular pulse.

By decision dated August 20, 2019, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish that the June 20, 2019 fall was caused by factors of her federal employment. Specifically, it found that appellant's injury was the result of a nonoccupational illness and was, thus, idiopathic. OWCP, therefore, concluded that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed, that an injury was sustained in the performance of duty, as alleged, and that any disability or medical condition for

[3] *Supra* note 1.

which compensation is claimed is causally related to the employment injury.[4] These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[5]

To establish an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying an employment factor or incident alleged to have caused or contributed to his or her claimed emotional condition; (2) medical evidence establishing that he or she has a diagnosed emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the accepted compensable employment factors are causally related to the diagnosed emotional condition.[6]

Workers' compensation law does not apply to each and every injury or illness that is somehow related to a claimant's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within the purview of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is deemed compensable.[7] However, disability is not compensable when it results from factors such as an employee's fear of a reduction-in-force, or frustration from not being permitted to work in a particular environment, or to hold a particular position.[8]

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, OWCP, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship, and which working conditions are not deemed factors of employment and may not be considered.[9] If a claimant does implicate a factor of employment, OWCP should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, OWCP must base its decision on an analysis of the medical evidence.[10]

It is a well-settled principle of workers' compensation law that an injury resulting from an idiopathic fall where a personal, nonoccupational pathology causes an employee to collapse and

[4] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[6] *See A.M.*, Docket No. 21-0420 (issued August 26, 2021); *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

[7] *See A.M., id.*; *A.C.*, Docket No. 18-0507 (issued November 26, 2018); *Pamela D. Casey*, 57 ECAB 260, 263 (2005); *Lillian Cutler*, 28 ECAB 125, 129 (1976).

[8] *Lillian Cutler, id.*

[9] *See R.B.*, Docket No. 19-0434 (issued November 22, 2019); *O.G.*, Docket No. 18-0359 (issued August 7, 2019).

[10] *Id.*

to suffer injury upon striking the immediate supporting surface, and there is no intervention or contribution by any hazard or special condition of employment, is not within coverage of FECA.[11] Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable.[12] However, the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition.[13]

This follows from the general rule that an injury occurring while in the performance of duty is compensable unless the injury is established to be within an exception to such general rule.[14] OWCP has the burden of proof to submit medical evidence showing the existence of a personal, nonoccupational pathology if it chooses to make a finding that a given fall is idiopathic in nature.[15] If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proven that a physical condition preexisted and caused the fall.[16]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish an injury in the performance of duty on June 20, 2019, as alleged.

In response to OWCP's development questionnaire, appellant alleged that she was fatigued, stressed, and experienced anxiety due to her work-related duties, which resulted in her June 20, 2019 fall, unconsciousness and cardiac arrest. However, she has not implicated any specific employment factors to which she attributes these conditions. Although Dr. Klein reported on a July 30, 2019 Form CA-20 that appellant was in cardiac arrest, which caused her fall at work, and indicated with an affirmative check mark that her condition was caused or aggravated by her stressful work environment, he too did not delineate any contributing employment factors in support of his opinion.

The Board finds that as appellant has not established any compensable employment factors,[17] she has not met her burden of proof to establish that she sustained a stress-related condition due to factors of her federal employment. Appellant further alleged that she sustained an injury when she fell, hitting the back of her head on a concrete floor, while at work on

[11] *M.A.*, Docket No. 19-0341 (issued July 10, 2019); *H.B.*, Docket No. 18-0278 (issued June 20, 2018); *Carol A. Lyles*, 57 ECAB 265 (2005).

[12] *Id.; see also D.T.*, Docket No. 19-1486 (issued January 17, 2020).

[13] *H.B.*, *supra* note 11; *M.M.*, Docket No. 08-1510 (issued November 25, 2008).

[14] *P.N.*, Docket No. 17-1283 (issued April 5, 2018); *Dora Ward*, 43 ECAB 767 (1992).

[15] *A.B.*, Docket No. 17-1689 (issued December 4, 2018); *P.P.*, Docket No. 15-0522 (issued June 1, 2016); *see also Jennifer Atkerson*, 55 ECAB 317 (2004).

[16] *P.N.*, *supra* note 14; *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988).

[17] *M.B.*, Docket No. 20-1160 (issued April 2, 2021).

June 20, 2019. OWCP does not contest that she fell. The evidence indicates that after appellant finished charting notes at the nurses' station she arose from a seated position and began walking down a hallway when she suddenly stopped, became dazed, and fell backwards hitting the back of her head. OWCP denied the claim, finding that appellant's fall was a result of an idiopathic condition and, thus, not within the performance of duty.

As noted, an injury resulting from an idiopathic fall is not compensable.[18] If appellant's injury was due to an idiopathic condition, the injury would not arise out of her employment. OWCP has the burden of proof to submit medical evidence showing the existence of a personal, nonoccupational pathology to establish that a given fall is idiopathic in nature.[19] The Board finds that as appellant has not established that she sustained a stress-related condition due to factors of her federal employment, her fall on June 20, 2019 was due to a personal, nonoccupational pathology without employment contribution.[20]

Appellant explained on her claim form that on June 20, 2019, she had gone into cardiac arrest while working at the nurses' station. The evidence of record includes a number of witness statements indicating that she was charting notes at her desk before she stood to greet a patient, and then walked across the floor, grabbed for a door handle, grunted, and suddenly fell backward, hitting her head on the concrete floor. Both N.M. and M.B. observed that there were no other items that she struck on the way to the ground.

In their June 20, 2019 reports, Drs. Clippard and Chappell diagnosed syncope and collapse, AAA, cardiac arrest, and possible seizure/seizure-like activity. In his reports, Dr. Klein diagnosed sudden cardiac arrest and opined that the cause of appellant's fall was due to sudden cardiac arrest. Likewise, Drs. Reuter and Ramaswamy also diagnosed cardiac arrest and Dr. Higano further noted a diagnosis of collapse at work. However, there is no indication that any employment-related factor caused or contributed to appellant's fall.

Drs. Bahna, Hassen, and Avellone diagnosed bilateral rib fractures due to CPR following the June 20, 2019 fall. However, these injuries occurred as a result of appellant's stress-related condition, which, as noted above, has not been established as employment related. As previously noted, in the case of an idiopathic fall, striking an immediate supporting surface, without an intervention or contribution by any hazard or special condition of employment is not within coverage of FECA.[21]

Accordingly, appellant has not established that she sustained an injury in the performance of duty on June 20, 2019, as alleged.

[18] *Supra* note 11.

[19] *Supra* note 14.

[20] *Supra* note 11.

[21] *Id*.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that an injury occurred in the performance of duty on June 20, 2019, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the August 20, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 30, 2021
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board